

V. Remarks

Referring first to the rejections under Section 112, it is respectfully submitted that the newly presented claims traverse most outstanding issues in these regards. As to the remaining issues, Applicant responds as follows:

First, respecting claims 10, 13, and 23, Applicant states that “copolymers of polyalkylenes” and “copolymers of polypropylenes” are the intended terms.

Respecting recitation in claim 10 of the “orientable alloyed relationship” of the major and minor portions, Applicant respectfully submits that such language is rendered sufficiently definite by the explanation found at page 7 of the written specification; to wit:

“As used herein, the term ‘alloyed relationship’ and ‘alloy’ are taken to define a randomly oriented dispersion of the minor component in the major component in a manner which facilitates the orientation of the respective components relative to one another upon the application of external forces such as pressure and heat.”

Respecting the examiner’s rejection of the recitation in claims 10, 14, and 16 of “relative orientational positioning,” and the recitation in claim 23 of “outwardly oriented,” Applicant notes that such language appears in the claims of related application Serial No. 09/921,773, now issued Patent No. 6,670,421, which application was examined by this examiner without rejection of the now-contested phrase. Respectfully, Applicant submits that the rejected language is not indefinite.

Turning then to the rejections of the claims in view of the prior art, the invention of claims 10, 11, 14-16, and 17 (re-presented in new claims 53-66), drawn to a melt-processible polymeric material, stands alternatively rejected under Sections 102(b) and 103(a) over Subramanian, U.S. Pat. No. 4,410,482 (hereinafter “the ‘482” patent).

More specifically, the examiner alleges that the '482 patent "discloses a melt-processible polymeric material comprising a major amount of a polyolefin and a minor amount of a polyester wherein said polyolefin is in the form of a continuous matrix phase and the polyester is in the form of a discontinuous phase..." and further discloses "a compatibilizing copolymer, which adheres together the major and minor components." Official Action, p. 6. Applicant respectfully disagrees.

The '482 patent discloses laminar articles formed from polyolefin and an incompatible condensation polymer, such as polyamides and polyesters, along with an alkyl-carboxyl-substituted polyolefin as a compatibilizing material. The laminar articles are characterized by a multitude of thin, substantially two-dimensional, parallel overlapping layers of a first polymer embedded in a continuous matrix phase of a second polymer. *See* col. 2, lines 55-62.

The rejected claims, in contrast, recite a melt-processible polymeric material comprising at least one compatibilizer present in an amount sufficient to *promote orientational positioning* of the major olefinic portion and the minor non-olefinic portion upon application of an orientational inducement force. *See* claims 53 and 56. The nature of this orientational positioning characteristic is explained in more detail in the specification as comprising the apparent facilitation of the relative orientation of the major and minor components upon external application of an orienting force, such as the heat generated during injection molding processes.

This is in marked contrast to the aforementioned teaching of the '482 patent, which discloses: That the laminate comprises one polymer in the form of a continuous matrix phase and another polymer in the form of a discontinuous phase comprising a

“multitude of thin, substantially two-dimensional, parallel and overlapping layers...,” col. 2, lines 55-63; and that the compatibilizer functions only to adhere adjacent layers of the incompatible polymers. *See* col. 3, lines 1-7.

Turning lastly to the 103 rejection of claim 17 (newly re-presented as claim 59), Applicant respectfully submits that the examiner has failed to establish a *prima facie* case, or, indeed, any case at all.

A *prima facie* case of obviousness requires, *inter alia*, that “all the claim limitations must be taught or suggested by the prior art.” M.P.E.P. § 2143.03 (*citing In re Royka*, 180 USPQ 580 (CCPA 1974)), and further that there be “some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” *See* MPEP § 2143; *see also In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1998); and *In re Jones*, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this instance, the examiner makes no showing either of any prior art teaching the differences between the ‘482 patent and the instant invention, or any suggestion or motivation sufficient to prompt one of ordinary skill in the art to have modified the ‘482 patent to arrive at the invention as claimed. More particularly, and even assuming, *arguendo*, the propriety of the examiner’s contention that it would have been obvious “to have employed a mixture of compatibilizers in the reference with the reasonable expectation of obtaining their additive effect,” such is not comprehensive of the nature of Applicant’s invention as instantly claimed. Rather, the invention of claim 59 recites the presence of at least a second compatibilizer present in an amount *below* that required to provide effective functionalization for the polymeric components. As Applicant specifies,

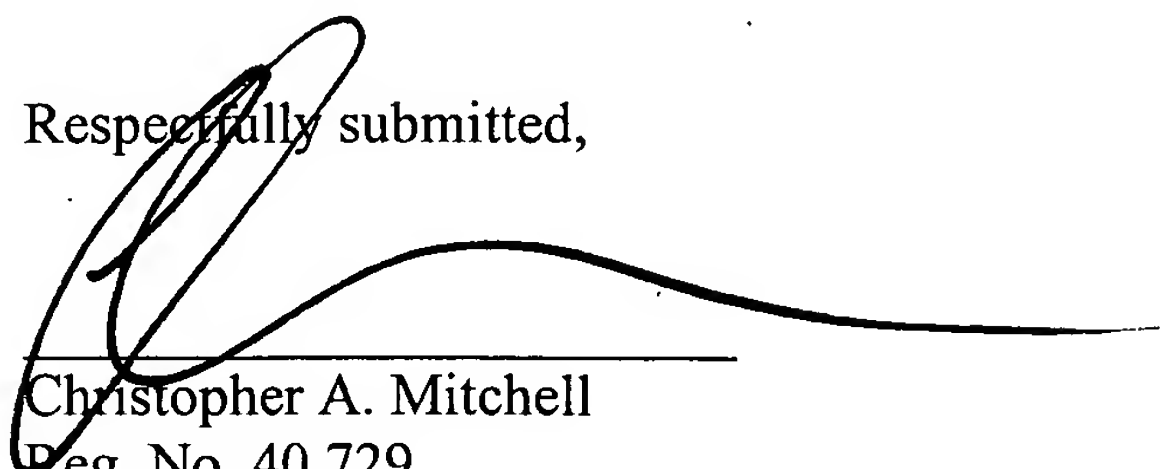
he has found, quite unexpectedly, that the incorporation of less than functionalizing quantities of a second migratory compatibilizing agent facilitates uniform product flow during injection molding or processing operations such as extrusion. *See, e.g.*, Specification at p. 28, par. [0093]. Respectfully, no such teaching or suggestion can be found in the '482 reference, *even if* the asserted combination of compatibilizers were, as the examiner submits, obvious.

The base claims being clearly patentable over the '482 reference, Applicant respectfully submits that the rejection of the remaining claims 11 and 15-16 as being anticipated or rendered obvious by that patent is rendered moot. This fact notwithstanding, Applicant notes that the art of record, taken alone or in any permissible combination, fails to either anticipate or render obvious the invention of these claims. Should the examiner maintain the rejections to the claims, Applicant reserves the right to place the claims in allowable form, argue the patentability thereof, and/or appeal such rejection.

IV. Conclusion

In view of the foregoing, Applicant submits that the claims are in condition for immediate allowance. Of course, the examiner is invited to contact Applicant's undersigned counsel at (734) 662-0270 if she should have any questions respecting this paper, or if a telephonic interview might otherwise expedite the prosecution of this case.

Respectfully submitted,



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